

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

LAUREL BEAR,	)	4:05CV3283
	)	
Plaintiff,	)	
	)	
vs.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
JO ANNE B. BARNHART,	)	
Commissioner of Social Security	)	
Administration,	)	
	)	
Defendant.	)	

This matter is before the court upon Plaintiff's application for attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412 (filing 18). The defendant has filed a response (filing 19) stating that she has no objection to the application and requesting that the court award fees in the amount of \$4,726.05, the amount requested by Plaintiff, which represents 29.4 hours of work at \$160.75<sup>1</sup> per hour.

The court has determined that Plaintiff was indeed the prevailing party in this action, as this action was remanded to the Secretary for further action; that the application for fees was filed in a timely fashion<sup>2</sup>; and that the position of the Commissioner was not substantially justified. Plaintiff therefore is entitled to an award of reasonable attorney fees.

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<sup>1</sup>The maximum hourly fee of \$125.00 specified in 28 U.S.C. § 2412(d)(1)(D)(2)(A) was adjusted to account for inflation (Filing 18, Exs. C & D).

<sup>2</sup>An EAJA fee application based on a district court judgment remanding a case pursuant to sentence four of 42 U.S.C. § 405(g) must be filed within 90 days of the sentence-four judgment. Shalala v. Schaefer, 509 U.S. 292, 302 (1993).

IT IS ORDERED:

1. Plaintiff's application for attorneys fees pursuant to the Equal Access to Justice Act (filing 18) is granted as to the requested \$4,726.05 in attorney fees;

2. By separate document, the court shall enter judgment for Plaintiff and against Defendant providing that Plaintiff is awarded attorney fees in the amount of \$4,726.05.

July 26, 2006.

BY THE COURT:

*s/ Richard G. Kopf*

United States District Judge